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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,157	01/27/2005	Takashi Hoshino	4265-0057WOUS	5674

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EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/523,157	Applicant(s) HOSHINO, TAKASHI	
	Examiner Gary K. Graham	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 2, there is no antecedent basis for “the holding groove”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Takashi (JP publication 10006932).

Takashi discloses the invention as is claimed. Takashi discloses (fig. 7) a wiper blade mounted to a wiper arm (8) for wiping a glass surface (1). Takashi further discloses that the wiper blade may be comprised as a blade rubber (2) for wiping the glass which is supported by a holder piece assembly. The holder piece assembly includes a plurality of holder pieces (92, figs.1-3) for

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holding the blade rubber and an elastic member (91) connecting the holder pieces to each other in the longitudinal direction. The elastic member is provided in each holder piece as it passes through slot (920). The holder pieces are provided with holding claws (924) for holding the blade rubber and are tapered toward an adjacent holder piece.

With respect to claim 2, it is noted that the window glass surface is not part of the claimed wiper blade. Therefore, comparisons of the holder piece assembly with the glass surface do not act to distinguish the assembly from Takashi.

With respect to claim 3, such relates to the method of making the wiper blade. Such does not act to define any structure or particular structural relationship between components not shown or suggested by Takashi.

With respect to claim 8, not figure 3 of Takashi wherein a gap is provided between a retaining groove and claw (924). Such is where membrane (7) passes through.

Claims 1-4 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallis (US patent 2,901,761).

The patent to Wallis discloses the invention as is claimed. Wallis discloses (figs. 1-3) a wiper blade for mounting to a wiper arm (not shown but disclosed) for wiping a glass surface. Wallis further discloses that the wiper blade may be comprised as a blade rubber (30) for wiping the glass which is supported by a holder piece assembly. The holder piece assembly includes a plurality of holder pieces (12,20,48) for holding the blade rubber and an elastic member (22 formed by two strips) connecting the holder pieces to each other in the longitudinal direction at least through notches (26,28). The elastic member is provided in each holder piece as it passes therethrough (see fig.4). The holder pieces are provided with holding claws (54) for holding the blade rubber.

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With respect to claim 2, it is noted that the window glass surface is not part of the claimed wiper blade. Therefore, comparisons of the holder piece assembly with the glass surface do not act to distinguish the assembly from Wallis.

With respect to claim 3, such relates to the method of making the wiper blade. Such does not act to define any structure or particular structural relationship between components not shown or suggested by Wallis.

With respect to claim 8, not figure 4 of Wallis wherein a gap is provided between a retaining groove and claw (54).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3, 4 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/548,301 in view of Wallis (US patent 2,901,761). Claim 2 of the copending application claims the invention as claimed, with the exception of the elastic members being provided in each holder piece. The patent to Wallis discloses all of the above, including the elastic members (22) passing through the holder pieces (12, 20,48) which include claws (54). It would have been obvious to one of skill in the art to provide the elastic member of the '301 application as passing through the holder pieces and provide the holder pieces with claws, as suggested by Wallis, to enable a compact and secure manner of holding the elastic members.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim of the '301 application fully anticipate the claims of the instant application.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallis (US patent 2,901,761) in view of Scinta (US patent 3,116,507).

The patent to Wallis discloses all of the above recited subject matter with the exception of an auxiliary member to connect the elastic members.

The patent to Scinta discloses a wiper blade (fig.8) in which strips of the elastic member (28) are connected via an auxiliary member (41) to enhance laterally rigidity.

It would have been obvious to one of skill in the art to connect the elastic members of the Wallis wiper blade along the longitudinal length with auxiliary members, as clearly suggested by Scinta, to enhance the lateral rigidity of the elastic members.

Response to Arguments

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection. As set forth above, Takashi discloses the elastic member (91) as passing through or being provided in each of the holder pieces (92). Likewise, Wallis discloses the elastic member (22) as provided in the holder pieces (12,20,48) and connects the holder pieces to one another at least due to claws (42,46) received in notches (26,28).

Allowable Subject Matter

It appears claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

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the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys J. Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary K Graham
Primary Examiner
Art Unit 1744

GKG
19 January 2007